

C. REMARKS

In the Office Action of 6 February 2006, Claims 1-19 are again rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,456,981 to *Dejaeger et al.* in view of U.S. Patent No. 6,553,404 to *Stern*. In response, claims 1, 8, and 14 have been amended to further clarify the claimed invention.

Applicant's prior Amendment pointed out that neither *Dejaeger* nor *Stern* disclose, teach or suggest the combination of advertising content with entertainment content. The Office Action admits "that *Dejaeger* teaches a playlist which consists of advertisements and online surveys". Unfortunately, the Office Action argues that "said online survey would be classified as entertainment, as customers are remunerated for giving their opinions about different subjects". The Office Action then goes on to argue (hopefully sardonically), "The Examiner wants to mention that he is a member of different Internet online survey systems and the Examiner has a lot of fun filling said surveys as he is remunerated for filling said surveys."

Applicant respectfully traverses the rejection based on the classification of a consumer survey associated with an advertisement message at a retail kiosk or check-out counter as "entertainment."

The survey referenced by *Dejaeger et al.* is a form of advertisement, it is not entertainment. More appropriately, it is more of a nuisance to most consumers. The mere fact that one receives an "incentive voucher" as referenced by *Dejaeger et al.* to complete the advertisement survey further supports this point. *Dejaeger et al.* recognizes that an incentive maybe required in order to entice consumers to complete the advertisement survey. Receipt of an incentive voucher or other remuneration in exchange for completing a task or activity does not render the task or activity as "entertainment." Rather, the completion of a survey of the type taught by *Dejaeger et al.* is simply performance provided by the consumer in exchange for the incentive voucher under the agreement or contract with the survey provider.

Moreover, The Cambridge International Dictionary of English defines "entertainment" as "shows, films, television, or other performances or activities that entertain people, or a performance of this type." <http://dictionary.cambridge.org>. In contrast, The American Heritage Dictionary of the English Language defines "survey" as "[a] detailed inspection or

investigation. 2. A general or comprehensive view. 3. A gathering of a sample of data or opinions considered to be representative of a whole." <http://www.bartleby.com>. Thus, a survey is not entertainment.

Nevertheless, in order to expedite this matter Applicant has amended the independent claims to specify that "the entertainment content [is] provided in the absence of remuneration beyond the advertising content."

Therefore, it is respectfully submitted that all of the claims recite patentable subject matter and are in condition for allowance. Accordingly, favorable reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,

Date 5 May 2006
ClubCom, Inc.
(c/o Wilson Sporting Goods Co.)
8700 W. Bryn Mawr Avenue
Chicago, IL 60631

Telephone: (773) 714-6498
Facsimile: (773) 714-4557

By 
Terence P. O'Brien
Attorney for Applicants
Registration No. 43,840